

1 AN ACT relating to surgical smoke evacuation.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Energy generating device" means any tool that performs a surgical*
7 *function using heat, laser, electricity, or another form of energy;*

8 *(b) "Smoke evacuation system" means smoke evacuators, laser plume*
9 *evacuators, or local exhaust ventilators that effectively capture and*
10 *neutralize surgical smoke at the site of origin and before the smoke can*
11 *make ocular contact or contact with the respiratory tract of the occupants of*
12 *the room; and*

13 *(c) "Surgical smoke" means the by-product, including surgical plume, smoke*
14 *plume, bio-aerosols, laser-generated airborne contaminants, and other*
15 *lung-damaging dust, that results from contact with tissue by an energy*
16 *generating device.*

17 *(2) On or before January 1, 2021, in order to protect operating room nurses,*
18 *operating room personnel, and patients from the hazards of surgical smoke, the*
19 *cabinet shall promulgate administrative regulations in accordance with KRS*
20 *Chapter 13A requiring a health facility licensed under this chapter that utilizes*
21 *energy generating devices to make use of a smoke evacuation system during any*
22 *surgical procedure that is likely to produce surgical smoke.*

23 ➔Section 2. KRS 216B.990 is amended to read as follows:

24 (1) Any person who, in willful violation of this chapter, operates a health facility or
25 abortion facility without first obtaining a license or continues to operate a health
26 facility or abortion facility after a final decision suspending or revoking a license
27 shall be fined not less than five hundred dollars (\$500) nor more than ten thousand

- 1 dollars (\$10,000) for each violation.
- 2 (2) Any person who, in willful violation of this chapter, acquires major medical
3 equipment, establishes a health facility, or obligates a capital expenditure without
4 first obtaining a certificate of need, or after the applicable certificate of need has
5 been withdrawn, shall be fined one percent (1%) of the capital expenditure involved
6 but not less than five hundred dollars (\$500) for each violation.
- 7 (3) Any hospital acting by or through its agents or employees which violates any
8 provision of KRS 216B.400 shall be punished by a fine of not less than one hundred
9 dollars (\$100) nor more than five hundred dollars (\$500).
- 10 (4) Any health facility which willfully violates KRS 216B.250 shall be fined one
11 hundred dollars (\$100) per day for failure to post required notices and one hundred
12 dollars (\$100) per instance for willfully failing to provide an itemized statement
13 within the required time frames.
- 14 (5) In addition to the civil penalties established under KRS 216B.306(1) and (4), any
15 person who advertises, solicits boarders, or operates a boarding home without first
16 obtaining a registration as required by KRS 216B.305 and any person who aids or
17 abets the operation of a boarding home that is not registered shall be imprisoned for
18 no more than twelve (12) months.
- 19 (6) Any person or entity establishing, managing, or operating an abortion facility or
20 conducting the business of an abortion facility which otherwise violates any
21 provision of this chapter or any administrative regulation promulgated thereunder
22 regarding abortion facilities shall be subject to revocation or suspension of the
23 license of the abortion facility. In addition, any violation of any provision of this
24 chapter regarding abortion facilities or any administrative regulation related thereto
25 by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or
26 by careless, negligent, or incautious disregard for the statute or administrative
27 regulation, either by persons acting individually or in concert with others, shall

1 constitute a violation and shall be punishable by a fine not to exceed one thousand
2 dollars (\$1,000) for each offense. Each day of continuing violation shall be
3 considered a separate offense. The venue for prosecution of the violation shall be in
4 any county of the state in which the violation, or any portion thereof, occurred.

5 (7) Any hospital acting by or through its agents or employees that violates any
6 provision of KRS 216B.150 shall be punished by a fine of not less than one hundred
7 dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

8 **(8) Any health facility acting by or through its agents or employees that violates any**
9 **provision of Section 1 of this Act shall be punished by a fine of not less than one**
10 **hundred dollars (\$100) nor more than five hundred dollars (\$500) for each**
11 **violation.**